

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
No. 5:08-HC-2060-D

UNITED STATES OF AMERICA,)	
)	
Petitioner,)	
)	
v.)	ORDER
)	
ALFRED LEE WILSON,)	
)	
Respondent.)	

This case comes before the court to memorialize and elaborate on the rulings made at the hearing in this case on 27 May 2011. (*See* D.E. 39). This Order also addresses a motion (D.E. 40) filed by respondent subsequent to those proceedings.

D.E. 26 and 30 (Denied as Moot); D.E. 33 and 35 (Disapproved)

As announced at the hearing, respondent's motion (D.E. 26) for leave to file a memorandum on examiner payment issues and his motion (D.E. 30) for appointment of an additional examiner are DENIED AS MOOT in light of the ruling of this court in *United States v. Gloshey*, No. 5:08-HC-2051-BR (D.E. 58) (19 May 2011) (hereinafter "*Gloshey* Order"), which the court adopts in this case, as well as the relief otherwise provided for herein. The stipulations purporting to withdraw these motions (D.E. 33 and 35, respectively) are DISAPPROVED, also on the basis of the *Gloshey* Order.

D.E. 40 (Granted)

On 1 June 2011, subsequent to the hearing, respondent filed a motion (D.E. 40) for appointment of Michael P. Griffin, Ph.D. as an additional mental health examiner selected by respondent pursuant to 18 U.S.C. §§ 4247(b) and 4248(b). Dr. Griffin had been retained by respondent apparently on or about 14 January 2011, he examined respondent on 16 February 2011,

and his report on the examination (D.E. 28) was filed on 15 March 2011. The motion requests that Dr. Griffin's appointment be effective as of 14 January 2011 in order to meet requirements for funding by the Department of Justice ("DOJ"). The court hereby GRANTS the motion for appointment and APPOINTS Dr. Griffin as an additional mental health examiner selected by respondent, pursuant to 18 U.S.C. §§ 4247(b) and 4248(b). The effective date of this appointment is 14 January 2011, *nunc pro tunc*.

In accordance with the *Gloshay* Order (pp. 13-15), DOJ is ORDERED to pay the costs of Dr. Griffin in accordance with the Guidelines for Administering CJA and Related Statutes applicable to cases under 18 U.S.C. §4246, 7A *Guide to Judiciary Policy* §320.20.60(g), pending ultimate resolution of the allocation of responsibility for payment of such costs. DOJ shall be responsible for the costs of the examination, report, and deposition and hearing testimony. Respondent shall provide DOJ, through the United States Attorney's Office, E.D.N.C., all the information and documents reasonably needed by DOJ to obligate the funds for the payment of Dr. Griffin's costs.

D.E. 31 (Granted)

As discussed at the hearing, the respondent's motion at D.E. 31 seeks both appointment of Leonard A. Bard, Ph.D. as a second additional mental health examiner selected by respondent pursuant to 18 U.S.C. §§ 4247(b) and 4248(b), and an extension of the time for respondent to make his initial disclosures. The court will address each portion of the motion in turn.

Respondent made an adequate showing of need for the appointment of Dr. Bard as a second respondent-selected examiner for reasons stated at the hearing. The court therefore GRANTS respondent's motion as to the appointment of Dr. Bard and APPOINTS him as a second additional mental health examiner selected by respondent pursuant to 18 U.S.C. §§ 4247(b) and 4248(b). The

effective date of this appointment is 25 March 2011, the date the motion was filed, *nunc pro tunc*.

In accordance with the *Gloshay* Order (pp. 13-15), DOJ is ORDERED to pay the costs of Dr. Bard in accordance with the Guidelines for Administering CJA and Related Statutes applicable to cases under 18 U.S.C. §4246, 7A *Guide to Judiciary Policy* §320.20.60(g), pending ultimate resolution of the allocation of responsibility for payment of such costs. DOJ shall be responsible for costs of the examination, report, and deposition and hearing testimony. Respondent shall provide DOJ, through the United States Attorney's Office, E.D.N.C., all the information and documents reasonably needed by DOJ to obligate the funds for the payment of Dr. Bard's costs.

As to respondent's request for an extension of the deadline for his initial disclosures, respondent has demonstrated good cause. This portion of the motion is therefore also GRANTED, and the deadline is extended to 15 July 2011.

SO ORDERED, this 2 day of June 2011.


James E. Gates
United States Magistrate Judge